



California Fair Political Practices Commission

July 19, 1989

Lynn Montgomery
Principal Assistant to
Speaker pro Tempore Mike Roos
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0001

Re: Your Request For Informal
Assistance
Our File No. I-89-384

Dear Ms. Montgomery:

You have requested assistance concerning the campaign provisions of the Political Reform Act.^{1/} Because you have not identified the person on whose behalf you have requested assistance, we treat your letter as a request for informal assistance, rather than formal advice.^{2/}

QUESTIONS

(1) You refer to a previous request for advice you submitted (Our File No. A-89-230, copy enclosed), and ask if gifts provided in connection with the social events described in that letter are subject to the limitation on gifts and honoraria in Section 85400.

(2) Are a sponsored membership in a health club, sponsored participation in golf tournaments and other similar activities subject to the limitation on gifts and honoraria in Section 85400?

1/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

2/ Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

CONCLUSIONS

(1) There is no indication in your previous request for advice that the gifts received by the elected officeholders in connection with the social events described in that letter are in connection with a "speech, article or published work on a subject relating to the governmental process." If that is the case, the limitation provided in Section 85400 does not apply to those gifts.

(2) The limitation on gifts and honoraria in Section 85400 applies only to a "payment for any speech, article, or published work on a subject relating to the governmental process." Therefore, the gifts you asked about in this question do not appear to be subject to the limitation in Section 85400.

ANALYSIS

Section 85400 provides:

No elected officeholder shall accept any gift or honorarium for any speech, article, or published work on a subject relating to the governmental process from any single source which is in excess of one thousand dollars (\$1,000), in any calendar year, except reimbursement for actual travel expenses and reasonable subsistence in connection therewith.

Regulation 18540 (copy enclosed) which was adopted by the Commission on June 6, 1989, clarifies that the limitation established in Section 85400 applies only to payments for a speech, article or published work on a subject relating to the governmental process, and does not apply to gifts or honoraria received in other contexts.

Regulation 18540 also provides definitions of the terms "honorarium," "governmental process" and "speech" as used in Section 85400.

Lynn Montgomery
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If you have questions about whether specific speeches, articles or published works meet the criterion of being "on the governmental process," please submit a request for assistance.

If you have any questions about this letter, please call me at (916) 322-5662.

Sincerely,

Kathryn Donovan
General Counsel

By: Jeanne Pritchard
Division Chief
Technical Assistance and
Analysis Division

Enclosure

SACRAMENTO ADDRESS
STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0001
(916) 445-7644

DISTRICT OFFICE ADDRESS
625 SOUTH NEW HAMPSHIRE AVENUE
LOS ANGELES, CALIFORNIA 90005
(213) 386-8042

Assembly California Legislature



MIKE ROOS
SPEAKER PRO TEMPORE
ASSEMBLYMAN, FORTY-SIXTH DISTRICT

COMMITTEES
AGING AND LONG TERM CARE
INTERNATIONAL TRADE AND
INTERGOVERNMENTAL
RELATIONS
NATURAL RESOURCES
WAYS AND MEANS

CHAIRMAN
WAYS AND MEANS
SUBCOMMITTEE NO. 5

June 22, 1989

Kathleen E. Donovan
Acting General Counsel
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, California 95814

Dear Ms. Donovan:

This is in regard to my request for advice dated April 13, 1989, your file number A-89-230, and your response dated May 19, 1989. (Copies of correspondence enclosed.)

Since the Commission determined on June 6 that Proposition 73 does not limit the amount of gifts and honoraria as long as it is not a payment for a speech or article "relating to the governmental process," I am seeking confirming advice that the payments for the social events described in my advice request would not be payments for a speech or article on the governmental process, and therefore not subject to the limitations on gifts and honoraria contained in Proposition 73.

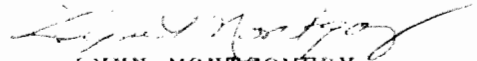
If a legislator received such a "gift" during the period April 23 through April 26, such that, when combined with a gift received prior to April 23 but during the current fiscal year, caused the total amount of gifts from a single source to exceed \$1,000, is the legislator required to repay a portion of the gift so as not to exceed the \$1,000 limit on gifts and honoraria?

In addition, please confirm that a "sponsored" membership in

a health club, "sponsored" participation in golf tournaments and other similar activities also would not be considered payments for a speech or article "relating to the governmental process."

I appreciate your timely response. If you require any additional information or clarification, please do not hesitate to contact me.

Sincerely,



LYNN MONTGOMERY



California Fair Political Practices Commission

May 19, 1989

Lynn Montgomery
Principal Assistant to
Speaker pro Tempore Mike Roos
State Capitol
P.O. Box 942849
Sacramento, CA. 94249-0001

Re: Your Request for Advice
Our File No. A-89-230

Dear Ms. Montgomery:

You have requested confirmation of telephone advice provided to you by Bruce Robeck regarding the campaign disclosure provisions of the Political Reform Act (the "Act").^{1/} Your questions and the advice provided to you by telephone are enumerated below.

(1) The Speaker pro Tempore has a controlled committee ("DC Committee") which was formed prior to January 1, 1989, for the purpose of receiving contributions and making expenditures for certain social events in connection with an annual trip to Washington, D.C. by a delegation of California state senators and assemblymembers. How has Proposition 73 impacted the use of campaign funds and the reporting requirements of the DC Committee?

Any funds which were received by the DC committee prior to January 1, 1989, are restricted and may not be used to support or oppose a candidacy. (Sections 85306; Regulations 18536 and 18536.2, copies enclosed.)

A new committee controlled by the Speaker pro Tempore may not be formed for the purposes of receiving contributions and making expenditures which provide benefits to other California elective officials. (Sections 85202 and 85304.) In lieu of the previous arrangements which have been rendered impermissible by the new requirements, there are at least two alternatives. First, each

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Lynn Montgomery
May 8, 1989
Page Three

purposes of your second question. As a result of the court's ruling, "restricted funds" consist of contributions received prior to January 1, 1989, which would have been in compliance with the limitations of Sections 85301-85303, had those limits been in effect.

If you have further questions, you may call me at (916) 322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel

A handwritten signature in cursive script, reading "Jeanne Pritchard".

By: Jeanne Pritchard
Division Chief
Technical Assistance and
Analysis Division

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SUBCOMMITTEE NO 5



MIKE ROOS
SPEAKER PRO TEMPORE
ASSEMBLYMAN, FORTY-SIXTH DISTRICT

April 13, 1989

Bruce Robeck
Political Consultant II
Fair Political Practices Commission
428 J Street, 7th Floor
Sacramento, California 95814

Dear Mr. Robeck:

Every year since Jesse Unruh's speakership, a delegation of California State Senate and Assembly members have traveled to Washington, D. C. to meet with members of the Administration and Congress on mutual issues of concern.

While the California delegation has been in Washington D. C., businessmen and women, lobbyists and others have sponsored social functions to honor California state and federal representatives.

After consulting with the Fair Political Practices Commission, a campaign committee controlled by the Speaker pro Tempore was formed to accept contributions from those who wished to co-sponsor these functions.

The committee received contributions and made expenditures for these social events, and all receipts and expenditures were reported by the committee in accordance with the provisions of the Political Reform Act of 1974.

At the time the committee was formed, the Commission advised the committee treasurer that an individual who had disclosure requirements pursuant to Government Code Sections 87200-87210 would have no requirement to report as "gifts" on their annual Statements of Economic Interests any benefits received from activities paid for by the committee.

In addition, the Commission advised that those prohibited

from making "gifts" pursuant to Government Code Sections 86200-86205 could make or arrange for contributions to this committee.

In several recent conversations I have had with you, we discussed the fact that after the passage of Proposition 73, on January 1, 1989, all committees controlled by officeholders became subject to stringent contribution limitations and other restrictions. You informed me that according to the Commission's interpretations of Proposition 73, the Speaker pro Tem's committee described above became a "restricted" committee that could no longer receive contributions.

It was uncertain at the time of our conversations whether or not a new controlled committee could be formed for the purposes described above because of pending court actions and continuing Commission interpretations. However, it was clear that if a new controlled committee could be formed after January 1, 1989, all contributions to that committee would be subject to the limitations imposed by Proposition 73.

In addition, such contributions would be required to be cumulated with those received by other committees controlled by that officeholder for the purposes of determining when the contribution limits had been reached.

Please confirm your advice as stated above.

I have recently been informed that a California non-profit mutual benefit corporation will be hosting some social events in conjunction with this year's trip to Washington D. C. No officeholders are on its board of directors, nor are they participating in making any arrangements on behalf of the corporation. Certain individual and corporate sponsors will provide the necessary funding for the corporation.

The president of the non-profit corporation has informed me that, pursuant to Commission advice, "public officials" will be required to report any benefits received at their hosted events as "gifts" from those individuals and corporations who made contributions to their non-profit corporation. In addition, the president has stated that individuals registered to lobby in California will not make or arrange any contributions to the non-profit corporation.

You have stated that Commission regulations require public

officials in attendance to list each participating sponsor as a donor for the full "fair market value" of any benefits received.

Please confirm that this is the correct reporting method for public officials receiving such "gifts."

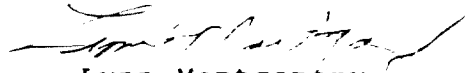
After reviewing copies of past public disclosure statements filed by the Speaker pro Tempore's controlled committee described above, employees of the non-profit corporation have asked for clarifying information regarding certain committee expenditures. They also have requested a list of those members who will be traveling to Washington D. C. for the purpose of issuing invitations to social events they will be hosting.

In addition, they have asked legislative and congressional staff who are familiar with the California representatives to assist them with check-in and seating arrangements one of the social events.

Please confirm that if the Speaker pro Tempore's staff provides information and assistance to the corporation as described above, such activity would not make the corporation a "controlled" committee.

I would appreciate your reply as soon as possible. If you require any additional information or clarification, please do not hesitate to call me.

Sincerely,



Lynn Montgomery
Principal Assistant
to the Speaker pro Tempore

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June 22, 1989

Kathryn E. Donovan
Acting General Counsel
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, California 95814

Dear Ms. Donovan:

This is in regard to my request for advice dated April 13, 1989, your file number A-89-230, and your response dated May 19, 1989. (Copies of correspondence enclosed.)

Since the Commission determined on June 6 that Proposition 73 does not limit the amount of gifts and honoraria as long as it is not a payment for a speech or article "relating to the governmental process," I am seeking confirming advice that the payments for the social events described in my advice request would not be payments for a speech or article on the governmental process, and therefore not subject to the limitations on gifts and honoraria contained in Proposition 73.

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a health club. "sponsored" participation in golf tournaments and other similar activities also would not be considered payments for a speech or article "relating to the governmental process."

I appreciate your timely response. If you require any additional information or clarification, please do not hesitate to contact me.

Sincerely,



LYNN MONTGOMERY



California Fair Political Practices Commission

June 29, 1989

Lynn Montgomery
c/o Assemblymember Mike Roos
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0001

Re: Letter No. 89-384

Dear Ms. Montgomery:

Your letter requesting advice under the Political Reform Act was received on June 28, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script, reading "Jeanne Pritchard", followed by the initials "JP:plh".

Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

JP:plh